

1996 Form 40

North Dakota Corporation Income Tax Instructions

Discover the Spirit!

**NORTH
DAKOTA**



State of North Dakota

OFFICE OF STATE TAX COMMISSIONER

State Capitol, 600 E. Boulevard Avenue, Bismarck, North Dakota 58505-0599

To All Corporations:

As you prepare your North Dakota income tax return, consider the following:

- **Who Must File**

Corporations engaged in business in or having sources of income from North Dakota must complete and file Form 40. Corporations which do not have business activity or sources of income from North Dakota are not required to complete Form 40.

- **Additional Assistance**

Please read the instructions carefully to avoid errors in completing the forms. If you have questions that the instructions do not answer, please write to the Office of State Tax Commissioner at the above address, or call 1-701-328-2046. In-state calls may be directed to the toll-free number 1-800-638-2901 (1-800-NDTAX01), extension 8-2046.

For the speech and hearing impaired, the local TDD number is (701)328-2778. The in-state toll-free TDD number is 1-800-453-8950.

Sincerely,

Bob Hanson
TAX COMMISSIONER

"Buy North Dakota Products"

Message To North Dakota Taxpayers Regarding North Dakota Use Tax Payable

If, in 1996, you purchased goods and did not pay state or city sales or use tax on that purchase, and if you used those goods in North Dakota, please contact the North Dakota Sales and Special Taxes Division toll free at 1-800-638-2901 to receive a form on which you must remit North Dakota Use Tax (and applicable city use tax) on the purchase price including shipping and handling costs.

What Is Use Tax?

Use tax is imposed on the privilege of using merchandise in North Dakota. Use tax applies to all goods used in North Dakota that are normally subject to sales tax, if the full sales tax rate was not charged at the time of purchase. Use tax protects in-state businesses from the unfair competition of out-of-state businesses that may sell goods tax free. It also assures fairness to the North Dakota residents who have purchased similar goods within the state and paid the state sales tax.

Why Am I Hearing About Use Tax?

North Dakota use tax law has been in existence since 1939 and applies to individuals as well as businesses. Large growth in the direct marketing industry (catalog, television, shopping channels, internet, direct 800 phone numbers, etc.) has made compliance with the use tax law very important. Some estimates calculate that North Dakota loses from six to ten million dollars per year in uncollected sales taxes on direct marketing goods ordered by residents of this state.

How Is Use Tax Applied?

Example 1: ABC Company purchased office supplies from an out-of-state direct marketing company. North Dakota sales tax was not included in the price paid. ABC Company owes use tax on the purchase price of the goods including all shipping and handling costs.

Example 2: XYZ, Inc. purchased from an out-of-state company a new forklift that will be used in North Dakota to handle inventory. No sales tax was paid to the out-of-state supplier. Because no sales tax was paid on the forklift, XYZ owes use tax on the purchase price.

Important Notice To Corporations Filing A Consolidated North Dakota Return Using The Combined Report Method

Corporations filing a consolidated State return must complete the four parts of Schedule CR and attach the completed schedule to Form 40 when filed.

The following corporations are required to complete and attach Schedule CR to Form 40:

- A. Effective for taxable years beginning after December 31, 1994, two or more 100% North Dakota corporations affiliated as parent and subsidiary, and filing a consolidated Federal tax return **MUST** file one consolidated North Dakota return using the Combined Report Method.
 1. A "100% North Dakota corporation" is one that has 100% of its property, payroll and sales within North Dakota and its business activity is conducted solely within the state.
 2. A "consolidated return" means a single corporation income tax return that reports the tax liability of more than one corporation.
 3. For purposes of this section, the "Combined Report Method" is an accounting method of determining the income properly attributable to activities within North Dakota from two or more affiliated 100% North Dakota corporations.
- B. Effective for taxable years beginning after December 31, 1995, an apportioning corporation engaged in a unitary business with one or more corporations and using the Combined Report Method to determine business income **MAY** file one consolidated North Dakota return using the Combined Report Method.
 1. An "apportioning corporation" is one whose business activity is conducted both within and without North Dakota.
 2. A "unitary business" is a group of corporations which carries on activities, the component parts of which transfer value among themselves through the unities of ownership, operation and use.
 3. A "consolidated return" means a single corporation income tax return that reports the tax liability of more than one corporation.
 4. For purposes of this section, the "Combined Report Method" is an accounting method of determining the business income properly attributable to activities within North Dakota from a group of unitary corporations.
 5. Additional information regarding the filing of a consolidated return by an apportioning corporation is contained in North Dakota Administrative Code §§ 81-03-05.1-08, 81-03-05.2 and 81-03-05.3.

General Instructions

1. Who Must File:

The following corporations must file a 1996 North Dakota Corporation Income Tax Return, Form 40, if the corporations are engaged in business in North Dakota or have sources of income from North Dakota:

- Corporations, including business trusts, associations, and joint-stock companies.
- Cooperative corporations which distribute their net income through patronage dividends.
- Insurance companies which conduct business activities not subject to the North Dakota gross premium tax.
- Tax exempt organizations which have unrelated business taxable income.
- Organizations which anticipate receiving a tax exempt status notification from the Internal Revenue Service, but have not, by the end of the taxable year, actually received such notification.

A corporation which files a Federal Form 1120S as a small business corporation must file a North Dakota Small Business Corporation Income Tax Return, Form 60.

2. Time For Filing:

A calendar year corporation filing Form 40 must file on or before April 15 following the close of the calendar year. A corporation reporting on a fiscal year basis must file on or before the 15th day of the fourth month following the close of the fiscal year. A cooperative must file on or before the 15th day of the ninth month following the close of the calendar or fiscal year.

3. Short Period Return:

A corporation required to file a Federal short period return must also file a North Dakota short period return. The North Dakota return is due on or before the 15th day of the fourth month following the close of the short period.

A corporation which terminates as a Subchapter S Corporation during the year, or a corporation which changes its annual accounting period must annualize its North Dakota taxable income and prorate its State tax liability in the same manner as the Federal tax liability is prorated.

4. Extension Of Time For Filing:

An extension of time within which to file a Federal return is automatically accepted by North Dakota as an extension of time to file the State return. The extended due date for the North Dakota return is the same as the extended due date for the Federal return. A copy of the Federal extension, Form 7004, must be attached to the State return when it is filed. If a copy of the Federal extension is not attached, the return will be processed as a delinquent return.

A State extension to file may be obtained, even if a Federal extension has not been requested, providing a written request is made to the Office of State Tax Commissioner prior to the due date of the North Dakota return.

If a corporation has an extension to file its North Dakota return but has not prepaid its entire State income tax liability, extension interest at the rate of 12% per annum applies. A corporation which desires to avoid extension interest may make a voluntary State payment. The payment must be accompanied by a copy of the Federal extension Form 7004 indicating the appropriate name, address, and Federal Identification Number of the taxpayer corporation, or by the letter approving the State extension.

5. Incomplete Return:

All applicable lines on the return and schedules must be completed, including returns which have computerized schedules attached. All attachments and worksheets must accompany the return when filed. Incomplete returns cannot be accepted and will be returned.

6. Attachments:

A complete copy of the Federal return must be attached to the Form 40. If the corporation is included in a consolidated Federal return, the following must be attached:

- A copy of the corporation's pro forma separate company Federal return.
- Pages 1-4 of the consolidated Federal return as filed with the Internal Revenue Service.
- A schedule of gross income and deductions, by company, which supports the consolidated taxable income.

7. Federalization:

The North Dakota income tax law is perpetually "Federalized" for taxable years beginning after December 31, 1988.

8. Method of Corporation Taxation:

The North Dakota corporation income tax applies only to that portion of a corporation's taxable income which is derived from or attributable to sources within this State.

A nonapportioning corporation, i.e. a corporation whose business activity is conducted solely within North Dakota, computes North Dakota taxable income by adjusting its Federal taxable income by North Dakota statutory adjustments.

An apportioning corporation, i.e. a corporation whose business activity is conducted both within and without North Dakota, computes North Dakota taxable income by adjusting its Federal taxable income by North Dakota statutory adjustments and apportioning this adjusted taxable income using Schedule A, B or CR of Form 40.

A corporation engaged in a unitary business with one or more corporations (irrespective of the country or countries in which the corporations conduct business) must file using the combined report method.

A unitary business is a group of corporations which carries on activities, the component parts of which transfer value among themselves through the unities of ownership, operation and use.

General Instructions (Continued)

- "Unity of ownership" means the group is under the common control of a single corporation, which is also a member of the group. Control exists when the single corporation owns, directly or indirectly, more than fifty percent of the voting stock of another corporation.
- "Unity of operation" means the group receives benefits from functional integration or economies of scale.
- "Unity of use" means the group of corporations contributes to or receives benefits from centralized management and policy formation.

Whether a group of corporations is engaged in a unitary business depends on the facts and circumstances of each case. If unity of ownership exists, any of the following facts or circumstances creates a presumption that the unities of operation and use exist; therefore, the corporations are engaged in a unitary business:

- All activities of the group are in the same general line or type of business.
- The activities of the group constitute different steps in a vertically structured enterprise.
- The group is characterized by centralized management.

9. Water's Edge Election:

A corporation required to file its North Dakota return using the worldwide unitary combined report method may elect to use the Water's Edge Method. The water's edge election must be made on the return as originally filed and is binding for five consecutive years. If the election is made, a corporation may not reduce taxable income by a Federal income tax deduction. Additionally, a domestic disclosure spreadsheet must be filed with the Office of State Tax Commissioner the first year the property, payroll, or sales in foreign countries exceed ten million dollars and total assets exceed two hundred fifty million dollars, and every third year thereafter provided the property, payroll, or sales in foreign countries exceed ten million dollars and total assets exceed two hundred fifty million dollars. The form for complying with the spreadsheet requirement must be obtained from the Office of State Tax Commissioner. (If electing the Water's Edge Method, complete and attach Schedule WE).

10. How To Pay:

If tax due (including interest and penalty) is less than \$5.00, payment need not be made. If tax is due, the total payment due must be paid when the return is filed. Payment should be made by check or money order to the North Dakota State Tax Commissioner.

11. Estimated Tax Payments:

If a corporation's estimated State income tax liability exceeds five thousand dollars (\$5,000) and its previous year's State income tax liability exceeded five thousand dollars (\$5,000), the corporation is required to make an estimated tax payment of at least one-fourth of the amount due on each of four prescribed dates. Additional information and the blue 40-ES forms for estimated tax payments are located at the back of this booklet.

12. Overpayments:

Overpayments of income tax may be applied to the 1997 estimated tax (minimum \$5.00), or issued as a refund (minimum \$5.00).

13. Quick Refund:

A quick refund of overpaid estimated income tax may be requested by a corporation if the overpayment exceeds five hundred dollars (\$500) and the claim for quick refund is filed after the close of the taxable year but before the 15th day of the fourth month thereafter. The form for the Quick Refund of Estimated Income Tax for Corporations (Form 40-QR) must be obtained from the Office of State Tax Commissioner.

14. Interest and Penalty:

The Office of State Tax Commissioner will notify the corporation of any interest or penalty owed on additional tax due and any interest which may accrue on a refund. If desired, interest and penalty may be computed by the corporation. See Specific Instructions for Page One, Line 26a, for the current interest and penalty provisions.

15. Amended Returns/Federal Audit Changes:

An Amended North Dakota Corporation Income Tax Return, Form 40X, must be filed if:

- An amended Federal return is filed.
- North Dakota income is changed as a result of a Federal audit.
- A corporation's North Dakota income is changed as a result of a North Dakota net operating loss carryback.
- The corporation wishes to correct an error discovered on a previously filed return.
- The corporation receives a refund of Federal income tax which was deducted on a previously filed Form 40.

Information relating to amended returns can be found in N.D.C.C. §§ 57-38-38 and 57-38-40. **A current Form 40X and instructions for the year to be amended must be obtained from the Office of State Tax Commissioner.**

16. Information At The Source:

Any corporation doing business in North Dakota which is required to file a Federal Form W-2 or 1099 must also file one with this State. For more information on the requirements and alternatives for satisfying those requirements, contact the Office of State Tax Commissioner.

17. Where To File Or Obtain Additional Forms And Instructions:

Completed returns and written requests for information and forms should be mailed to the Office of State Tax Commissioner, State Capitol, 600 E. Boulevard Ave., Bismarck, ND 58505-0599.

Forms and instructions may also be obtained by calling 701-328-2046. In-state calls may be directed to the toll-free number 1-800-638-2901 (1-800-NDTAX01), extension 8-2046. For the speech or hearing impaired, the local TDD number is 701-328-2778. The in-state toll-free TDD number is 1-800-453-8950.

Complete Copy Of Federal Return Must Be Attached

Specific Instructions For Page One

Line 1. Check the box on Page 1, which best describes the filing method used:

a. Single Corporate Entity

Check the "Single Corporate Entity" box if the corporation is filing as a single corporate entity for both North Dakota and Federal purposes, **or** if the corporation is filing as a single corporate entity for North Dakota purposes and is included in a consolidated Federal Form 1120. A single corporate entity's North Dakota return reports income or loss of only one incorporated business.

If the box entitled "Single Corporate Entity" is checked, enter amount from Federal Form 1120, Line 30, or Federal Form 1120-A, Line 26. Cooperatives and other business organizations using Federal forms other than Federal Form 1120 must enter the Federal taxable income from the appropriate form.

b. Combined Report Method

Check the "Combined Report Method" box if the corporation is filing a North Dakota return using the Combined Report Method, i.e. the corporation apportions its income from a unitary group of corporations, and the corporation is **NOT** filing a consolidated North Dakota return.

If the box entitled "Combined Report Method" is checked, enter the amount from the completed North Dakota Schedule WW, Line 14, and attach Schedule WW to Form 40.

b1. 100% North Dakota Corporations-- Consolidated Return Using the Combined Report Method

Check the "100% North Dakota - Consolidated Return" box if the corporation **is required** to file a consolidated North Dakota return using the Combined Report Method. Two or more corporations are required to file a consolidated return using the Combined Report Method if the corporations are affiliated as parent and subsidiary, are filing a consolidated Federal tax return, and are operating solely within North Dakota.

If the box entitled "100% North Dakota - Consolidated Return" is checked:

- enter the amount from the completed North Dakota Schedule WW, Line 14, and attach Schedule WW to Form 40.
and
- complete North Dakota Schedule CR, Parts I through IV, and attach the completed schedule to Form 40.

b2. Apportioning Corporation-- Consolidated Return Using the Combined Report Method

Check the "Apportioning Corp - Consolidated Return" box if the corporation is filing a consolidated North Dakota return using the Combined Report Method. Two or more corporations may file a consolidated return using the Combined Report Method if the corporations are required to use the Combined Report Method and more than one of the corporations have a filing requirement in North Dakota.

If the box entitled "Apportioning Corp - Consolidated Return" is checked:

- enter the amount from the completed North Dakota Schedule WW, Line 14, and attach Schedule WW to Form 40.
and
- complete North Dakota Schedule CR, Parts I through IV, and attach the completed schedule to Form 40.

c. Water's Edge Method

Check the "Water's Edge Method" box if the corporation is a member of a worldwide unitary group and elects to file a North Dakota return using the Water's Edge Method.

If the box entitled "Water's Edge Method" is checked, enter the amount from the completed North Dakota Schedule WE, Line 11, and attach Schedule WE to Form 40.

If the corporation is filing a consolidated North Dakota return, complete Schedule CR, Parts I through IV, and attach the completed schedule to Form 40.

d. Other

Check the "Other" box if the corporation has received written permission from the Office of State Tax Commissioner to file a North Dakota return using a filing method other than those specified above. Other filing methods are contained in N.D.C.C. § 57-38.1-18 (for example, separate accounting or a method using an apportionment factor different from that computed on Schedules A, B or CR).

If the box entitled "Other" is checked, provide a copy of the letter granting permission to use, or requiring the use of, this filing method and a worksheet substantiating and explaining the computation of income. Enter the total income from this worksheet on Line 1.

Line 5. If filing a consolidated North Dakota return, enter this amount on Schedule CR, Part I, Line 5 and complete all four parts of Schedule CR.

Line 6. If a corporation has business income from activity solely within this State, enter 1.000000 on this line. Corporations not filing a consolidated return, enter the apportionment factor from Schedule A, Line 6, or Schedule B, Line 14. Corporations filing a consolidated state return, enter the amount from Schedule CR, Part II, Line 14a.

Line 8. Nonbusiness income is allocated to this State if the income is attributable to North Dakota. Expenses should be attributed to this income in a manner which will fairly distribute all of the corporation's deductions to various types of income. Subtract expenses from nonbusiness income allocated to North Dakota and enter the difference on Line 8. Corporations filing a consolidated state return, enter the total for all corporations having activity within North Dakota.

Line 10. Corporations completing Schedule E, enter amount from Line 17. Corporations electing Water's Edge Method, enter zero on this line. Corporations filing a consolidated state return, enter the amount from Schedule CR, Part III, Line 17a.

Line 12. If a corporation has received a new and expanding business exemption from the State Board of Equalization, enter the amount of exempt income computed pursuant to N.D. Admin.Code § 81-03-01.1-06. Corporations filing a consolidated state return, enter the exempt income for all corporations having activity within North Dakota.

Line 13. If the amount on line 13 is a loss, the loss may be carried back and carried forward for the same number of years as a Federal loss. However, the corporation may elect to forego the allowable carryback period and carry forward the entire State loss. To elect to forego the carryback period for a North Dakota loss, check the box below line 13. A corporation must make this election on an original return that is timely filed for the year in which the loss was incurred. If an election is not made, the loss must be carried back. Additional information regarding loss carryback and loss carryforward provisions is contained in N.D.C.C. § 57-38-01.3(3) and N.D. Admin. Code § 81-03-05.1-07.

Line 14. The North Dakota loss carryforward allowed on the 1996 Form 40 is the amount of the accumulated loss less any previously deducted loss carryback or carryforward. Attach a worksheet showing the accumulated loss, by year, less any previously deducted loss carryback or carryforward. Additional information is contained in N.D.C.C. § 57-38-01.3(3) and N.D. Admin. Code § 81-03-05.1-07. Corporations filing a consolidated state return, enter the loss carryforward from all corporations having activity within North Dakota.

Line 16. Corporations completing Schedule AMT-R, enter amount from Line 11 on this line. Corporations filing a consolidated state return, enter the amount from Schedule CR, Part IV, Line 11a.

Lines 19 and 20. North Dakota law provides tax credits for contributions made to certain nonprofit North Dakota private institutions of higher education (colleges) and certain nonprofit North Dakota private institutions of secondary education (high schools). **Contributions qualify for these credits if made by the due date or extended due date of this return.** Each credit is limited to 50% of the contribution but not to exceed 20% of the total tax liability or \$2,500, whichever is less. The credit for contributions to a nonprofit private college should be entered on Line 19, and the credit for contributions to a nonprofit private high school should be entered on Line 20. If these credits are claimed, attach a receipt or a copy of the canceled check, front and back, to Form 40.

Line 21. A corporation may be entitled to a tax credit for investments made in a North Dakota venture capital corporation. The credit is limited to 25% of the amount invested or \$250,000, whichever is less. If the amount of the credit exceeds the corporation's State tax liability for that taxable year, the credit may be carried forward for up to seven years. A copy of the Venture Capital Corporation Investment Reporting Form must be attached to Form 40 in the initial year the tax credit is claimed. The corporation income tax credit for investments made in a North Dakota venture capital corporation is **NOT** allowed for investments made after February 28, 1991 in a venture capital corporation organized before January 1, 1989 which invested in a business or an affiliate of a business that owned tax-exempt securities. For additional information, contact the Office of State Tax Commissioner.

Line 22. If the corporation made a qualifying investment in the North Dakota Small Business Investment Company, a North Dakota Limited Partnership, enter 25% of the amount invested. If the credit exceeds the amount of the current tax liability, the excess may be carried forward up to seven years. **Attach a copy of the North Dakota SBIC Investment Reporting Form.** For additional information, contact the Office of State Tax Commissioner.

Line 23. Complete Schedule TC, Page 4, to claim the following tax credits:

- Geothermal, solar or wind energy device.
- Employment of the developmentally disabled or chronically mentally ill.
- Research and experimental expenditures in North Dakota.
- New Industry Credit.
- Credit for payment to a certified nonprofit development corporation.
- Credit for cost of equipment to modify a motor vehicle to operate on alternative fuels.

Enter the amount from Schedule TC, line 7 on this line.

Line 25. Enter the total 1996 estimated income tax payments submitted with Form 40-ES. Also, enter any 1995 overpayment credited to the 1996 taxable year and any payment voluntarily made to the State with an extension of time for filing.

Line 26a. The current provisions for interest and penalty are:

- On refunds, 10% per annum, beginning sixty days after the due date of the return or after the date the return was filed, whichever comes later.
- On extensions to file returns, 12% per annum, beginning on the original due date of the return.
- On additional tax due, 1% per month or fraction of a month, excepting the month in which the tax became due.

Late payments are subject to a penalty of 5% of the tax or \$5.00, whichever is greater. Delinquent returns are subject to a penalty of 5% of the tax or \$5.00, whichever is greater, for the first month the return is delinquent (counting each fraction of a month as an entire month), with an additional 5% for each additional month or fraction thereof during which such delinquency continues, not to exceed 25% in the aggregate.

Specific Instructions For Schedule C

Computation Of Statutory Adjustments

North Dakota statutory adjustments must be made on a basis consistent with the filing method indicated on Page 1, Line 1.

Line 3. Enter all taxes measured by income, including income taxes, franchise or privilege taxes measured by income (paid to any taxing authority including a foreign country) to the extent such taxes were deducted to arrive at Federal taxable income. (Please note, if the Environmental Tax computed on Federal Form 4626 is deducted on the Federal return, the amount must be included in this adjustment).

Line 4. North Dakota income tax statutes did not allow for the use of ACRS depreciation on assets placed in service between January 1, 1981 and the end of the 1982 tax year. These assets must be depreciated using methods allowed under the Internal Revenue Code provisions in effect as of December 31, 1980. Federal taxable income must be adjusted for the difference in these two methods. Enter the amount of ACRS depreciation deducted on the Federal return for these assets for the current taxable year.

In computing this adjustment, exclude safe harbor lease assets. Include depreciation on all currently held assets which were placed in service between January 1, 1981 and the end of the 1982 tax year, **not** just such assets which are located within North Dakota.

Line 6. The safe-harbor lease provisions in Section 168(f)(8) of the Internal Revenue Code of 1954, as amended, were not adopted in North Dakota in those instances where the minimum investment by the lessor is less than one hundred percent (100%). Enter amounts on Line 6, as follows:

- Seller/Lessee: sale proceeds, rent expense, amortization expense, lease acquisition cost.
- Buyer/Lessor: interest expense, depreciation expense, amortization expense, acquisition cost, loss on sale of property.

Additional information regarding this adjustment is contained in N.D.C.C. § 57-38-01(3)(a).

An actual distribution made in taxable year 1996, by a Domestic International Sales Corporation or former Domestic International Sales Corporation on accumulated earnings derived before December 31, 1984, is to be included in North Dakota apportionable income. The amount of the actual distribution must be entered on Line 6. If the DISC making the actual distribution received in taxable year 1996 was included in a previous State return which used the combined report method, no adjustment to income is necessary. Additional information regarding this adjustment is contained in N.D.C.C. § 57-38-01(3)(d).

Line 8. Enter all income, franchise or privilege tax refunds received in 1996, to the extent such taxes were previously included in North Dakota taxable income.

Please note, Federal income tax refunds received in taxable year 1996 cannot be included on this line. See General Instructions, Section 15.

Line 10. Enter the amount of depreciation computed for the current taxable year on assets placed in service between January 1, 1981 and the end of the 1982 tax year, using methods allowable as of December 31, 1980. (See instructions for Line 4 for further explanation).

In computing this adjustment, exclude safe harbor lease assets. Include depreciation on all currently held assets which were placed in service between January 1, 1981 and the end of the 1982 tax year, **not** just such assets which are located within North Dakota.

Line 11. Income from dividends, interest, rents, royalties, sales or exchanges of property, patents, copyrights and any other income arising from transactions and activities in the regular course of a corporation's trade or business is generally considered business income and is subject to apportionment. If a corporation has nonbusiness (allocable) income, the corporation must enter the total amount of all allocable income, including income allocated to North Dakota, on this line. A worksheet substantiating the type and amount of income, documentation showing to which State this income was allocated [preferably the State income tax return(s)], and a narrative explaining reasons for allocating each type of income must be attached to Form 40.

Line 12. Expenses relating to allocable income included on Line 11, must be entered on Line 12. The method used to attribute expenses to allocable income must fairly distribute all of the corporation's deductions to various types of income.

Line 15. Dividends received by a corporation are not taxable in North Dakota if the dividends are received from a corporation which has paid North Dakota corporation income tax pursuant to N.D.C.C. ch. 57-38, or from a bank, trust company or building and loan association which has paid tax pursuant to N.D.C.C. chs. 57-35, 57-35.1, or 57-35.2. If the payor corporation's entire Federal taxable income was subjected to North Dakota taxation, the full amount of the dividends may be subtracted on this line. If the payor corporation is an apportioning corporation, the deduction is computed by multiplying the dividends received by the payor corporation's North Dakota apportionment factor.

Specific Instructions For Schedule C (Continued)

Line 16. If the amount on Page 1, Line 1 includes any gain, either ordinary or capital, from property subjected to eminent domain sale or transfer, such gain is not taxable and must be entered on this line.

Section 168(f)(8) of the Internal Revenue Code of 1954, as amended, was not adopted in North Dakota in those instances where the minimum investment by the lessor is less than one hundred percent (100%). Enter amounts as follows:

- Seller/Lessee: interest income and depreciation expense [for assets placed in service between January 1, 1981 and the end of the 1982 taxable year, use methods allowed under the Internal Revenue Code as of December 30, 1980; for assets placed in service after the 1982 taxable year use ACRS depreciation].
- Buyer/Lessor: rental income.

Specific Instructions For Schedule E

Computation Of Federal Income Tax Deduction

Use The Line Instructions That Apply According To The Box That Is Checked On Page 1, Line 1.

Corporations filing a consolidated North Dakota return must complete Schedule CR, Part III (do not complete Schedule E), and refer to the instructions for the "Combined Report Method."

a. Single Corporate Entity

A corporation filing as a single corporate entity for **both** North Dakota and Federal purposes completes Lines 1, 1a, 1b, 5, 6, 7, 8, 9, 10, 11 and 17.

A corporation filing as a single corporate entity for North Dakota purposes **and** included in a consolidated Federal Form 1120 completes Lines 1-11 and 17.

Line 1. Enter the amount from Federal Form 1120, Line 31, or Federal Form 1120-A, Line 27, as filed. Cooperatives or other business organizations using Federal forms other than Federal Form 1120 enter the Federal tax liability from the appropriate form.

Line 1a. Enter the amount of Federal Alternative Minimum Tax (AMT) which has been included on line 1. Federal AMT is disallowed in computing the North Dakota Federal Income Tax Deduction because income which created Federal AMT is not a part of North Dakota taxable income. Disallowed Federal AMT is carried forward and may be recaptured in future tax periods. For more information see Schedule AMT-R on page 4 of Form 40.

Line 2. Enter the Federal income tax liability as computed on the corporation's pro forma separate company return. Attach a worksheet substantiating this computation.

Line 3. Enter the total Federal income tax liability for all corporations included in the consolidated Federal return with each corporation's Federal income tax liability computed on a pro forma separate company return. The separate company tax liability of any corporation which does not result in a positive tax liability shall be zero. Attach a worksheet substantiating this computation.

Line 5. Enter the amount from Line 1b if filing as a single corporate entity for both North Dakota and Federal purposes. Multiply Line 1b by Line 4 if filing as a single corporate entity for North Dakota purposes **and** included in a consolidated Federal Form 1120.

Line 6. Enter the amount from Page 1, Line 1.

Line 7. Enter the income (**before** apportionment) included on Line 6 not taxable to North Dakota, such as interest on U.S. obligations and income allocated outside North Dakota.

Line 11. Enter the apportionment factor from Page 1, Line 6, and proceed to Line 17.

b. Combined Report Method

The following line instructions apply to a corporation which files a North Dakota return using the Combined Report Method (with the exception of a corporation electing the water's edge method) and which:

- Includes income from only **one** consolidated Federal return, **or**
- Includes income from only **one** consolidated Federal return and includes income from controlled foreign affiliates, **or**
- Includes income from only **one** Federal return not consolidated and includes income from controlled foreign affiliates.
- Files a consolidated North Dakota return.

A corporation filing its North Dakota return and including income from more than one Federal income tax return must complete Schedule E through Line 10, separately for each Federal return. Attach a worksheet substantiating the computations and enter the totals for all Federal returns on Schedule E, Lines 1, 1a, 1b, 5, 6 and 10.

Specific Instructions For Schedule E (Continued)

Line 1. Enter the amount from Federal Form 1120, Line 31, or Federal Form 1120-A, Line 27, as filed. Cooperatives or other business organizations using Federal forms other than Federal Form 1120 enter the Federal tax liability from the appropriate form.

Line 1a. Enter the amount of Federal Alternative Minimum Tax (AMT) which has been included on Line 1. Federal AMT is disallowed in computing the North Dakota Federal Income Tax Deduction because income which created Federal AMT is not a part of North Dakota taxable income. Disallowed Federal AMT is carried forward and may be recaptured in future tax periods. For more information see Schedule AMT-R on page 4 of Form 40.

If a consolidated Federal return is filed and all corporations included in the Federal return are included in the unitary group, enter the amount from Line 1b on Line 5 and skip Lines 2, 3 and 4.

If a consolidated Federal return is *not* filed, enter the amount from Line 1b on Line 5 and skip Lines 2, 3 and 4.

Line 2. Enter the total Federal income tax liability as computed on the pro forma separate company return for each unitary corporation which is included in the consolidated Federal return. The separate company tax liability of any corporation which does not result in a positive tax liability shall be zero. Attach a worksheet substantiating this computation.

Line 3. Enter the total pro forma separate company Federal income tax liabilities for all corporations included in the consolidated Federal return. The separate company tax liability of any corporation which does not result in a positive tax liability shall be zero. Attach a worksheet substantiating this computation.

Line 5. Multiply Line 1b by Line 4 if a consolidated Federal return is filed and **not** all corporations included in the Federal return are included in the unitary group. Otherwise, enter the amount from Line 1b.

Line 6. Enter the total Federal taxable income for all unitary corporations whose income is included in the Federal Form 1120. Attach a worksheet substantiating this computation.

Line 7. Enter the income (**before apportionment**) included on Line 6 not taxable to North Dakota such as interest on U.S. obligations and income allocated outside North Dakota.

Line 11. If not claiming a foreign tax credit on the Federal income tax return, enter the apportionment factor from Page 1, Line 6, and proceed to Line 17. Corporations filing a consolidated state return, enter the factors from Schedule CR, Part II, Line 14 on Schedule CR, Part III, Line 11.

If using the combined report method and claiming a foreign tax credit on the Federal income tax return, proceed to Line 12.

Line 13. "Total income" is Federal taxable income of those corporations which are included in the unitary group and are required to file a Federal income tax return, plus or minus the adjustments (**before** apportionment) provided in N.D.C.C. § 57-38-01.3, except for the Federal income tax deduction. Use the worksheet below to compute the total income to be entered on Line 13, or Schedule CR, Part III, Line 13.

1. Federal taxable income (Schedule E, Line 6)
2. Total additions (Page 1, Line 2)
3. Total subtractions (Page 1, Line 4)
4. Subtotal (Add Lines 1 and 2, subtract Line 3)
5. Net intercompany adjustments in Lines 2 & 3
6. Total income (Subtract Line 5 from Line 4.
Enter here and on Schedule E, Line 13, or
Schedule CR, Part III, Line 13)

1	
2	
3	
4	
5	
6	

Line 14. Enter the total taxable income from sources without the U.S., **after** loss recapture as computed on Federal form(s) 1118, Part II, Schedule B or Federal form(s) 5735.

c. Water's Edge Method

A corporation electing the Water's Edge Method **cannot** claim a Federal income tax deduction. Do not complete Schedule E and enter \$0 on Page 1, Line 10.

d. Other

A corporation which has checked the box entitled "Other" on Page 1, Line 1, should contact the Office of State Tax Commissioner for specific instructions. Based on the instructions from the Office of State Tax Commissioner, attach a worksheet substantiating the computations.

Specific Instructions For Schedule AMT-R

Computation Of Recapture And Carryforward Of Federal Alternative Minimum Tax Disallowed

North Dakota Schedule AMT-R is used to compute the recapture and carryforward of Federal Alternative Minimum Tax (AMT) which has been disallowed. Federal AMT may be recaptured only if:

- A Federal credit for prior year minimum tax is claimed.
AND
- The recapture does not create or increase a North Dakota net operating loss.

Corporations filing a consolidated State return must complete Schedule CR, Part IV (do not complete Schedule AMT-R.)

The recapture of Federal AMT disallowed is used to reduce North Dakota income on page 1 of the North Dakota Corporation Income Tax Return, Form 40 or Part I of North Dakota Schedule CR for corporations filing a consolidated state return. Any portion of the disallowed Federal AMT remaining after 1996, may be carried forward to future tax periods and used to reduce North Dakota income when a Federal credit for prior year minimum tax is claimed.

For specific line instructions, see Schedule AMT-R on page 4 of Form 40, or Schedule CR, Part IV for corporations filing a consolidated state return.

Additional Information Regarding The Computation Of The North Dakota Federal Income Tax Deduction And The Recapture Of Federal Alternative Minimum Tax Previously Disallowed Is Contained In N.D. Admin. Code ch. 81-03-05.4 and N.D.C.C. § 57-38-01.3(c) Respectively.

Specific Instructions For Schedule TC

Line 1. North Dakota law provides a tax credit to a corporation which purchases a geothermal, solar, or wind energy device in North Dakota. The tax credit is allowed for three years and is computed at 5% of the actual cost of acquisition and installation of the device. Attach a worksheet substantiating date of purchase, actual cost of acquisition and installation, and computation of the tax credit.

Line 2. A corporation may claim a tax credit for a portion of North Dakota wages paid to a developmentally disabled or chronically mentally ill employee. The tax credit is 5% of up to \$6,000 in wages paid to each such employee during the first twelve months of employment. The credit may not exceed 50% of the total tax liability. Only North Dakota wages actually paid during the taxable year may be considered for the tax credit. If this credit is claimed, attach an affidavit listing the amount of wages paid, the name, and the social security number of each employee.

Line 3. A corporation which invests in research and experimental expenditures within North Dakota is entitled to a tax credit. The tax credit is determined by subtracting the base period research expenses (as defined in Section 26 U.S.C. 41(c) of the Internal Revenue Code of 1986, as amended) which are applicable to North Dakota from the qualified research expenses made in North Dakota, and applying the following rates to the resulting difference:

- 8% on the first \$1,500,000, and
- 4% on the excess over \$1,500,000.

If the tax credit exceeds the current income tax liability, any unused tax credit may be carried back for three years and then carried forward for up to fifteen years.

Line 4. A corporation which has been incorporated in North Dakota for the first time after January 1, 1969, and which is not the result of a business reorganization or acquisition, or any out-of-State corporation that has received a certificate of authority to transact business in North Dakota for the first time after January 1, 1969, may be entitled to a tax credit. This tax credit is available only for new enterprises engaged in assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products or any combination

thereof. However, a corporation which is receiving any property tax or income tax exemption allowed by N.D.C.C. chs. 40-57 or 40-57.1 shall not be allowed this credit.

The tax credit is computed as a percentage of the annual gross amount expended by the corporation for salaries and wages within North Dakota. The following percentages apply:

- 1% for each of the first three taxable years a corporation qualifies for the tax credit, and
- .5% for each of the fourth and fifth taxable years a corporation qualifies for the credit.

Attach a worksheet substantiating date of incorporation or initial authority to transact business in this State, annual gross amount of salaries and wages within this State and type of business activity.

Line 5. A tax credit is available to a corporation which invests in a certified nonprofit development corporation. The maximum tax credit allowed is 25% of the total investment, not to exceed \$2,000. Any unused credit may be carried forward for up to seven years.

Line 6. For taxable years beginning after December 31, 1992, a tax credit is available to a corporation which installs equipment that modifies a North Dakota licensed motor vehicle to operate on alternative fuels. The credit is equal to 10% of the cost of the equipment, up to a maximum credit of \$200 for each motor vehicle weighing 10,000 pounds or less, or up to a maximum credit of \$500 for each motor vehicle weighing over 10,000 pounds.

"Alternative fuels" means natural gas, compressed natural gas, liquefied petroleum gas, liquefied natural gas, hydrogen, electricity, and any other fuel consisting of at least 85% methanol, ethanol, or any other alcohol, ether, or combination thereof.

Attach a worksheet that specifies date of modification; vehicle make, model, year and gross weight; cost of equipment; and type of alternative fuel. Provide the computation of the tax credit and proof of equipment cost.